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Federal Communications Commission
Consumer & Governmental Affairs Bureau
Washington, D.C. 20554

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OCT 3 2003

Control No. 0302788/kah

The Honorable Daniel K. Inouye
United States Senate
722 Hart Senate Office Building
Washington, D.C. 20510

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OCT 10 2003

Federal Communications Commission
Office of the Secretary

Dear Senator Inouye:

Thank you for your letter on behalf of your constituent, Ed Michelman, regarding his concerns over unsolicited faxes being sent to his fax machine. Although the Commission does not adjudicate individual complaints of this type, we do closely monitor such complaints to determine whether independent enforcement action is warranted. We received Mr. Michelman's previous correspondence regarding this issue, case number 01-P17803, however due to the problems that we experienced with the mail services at that time it may have contributed to his failure to receive our response.

The Commission has rules concerning unsolicited telephone marketing calls and unsolicited advertisements to facsimile machines in accordance with the Telephone Consumer Protection Act (TCPA). These rules require entities that make telephone solicitations to maintain "do-not-call" lists. Complaints received by the Consumer & Governmental Affairs Bureau regarding alleged TCPA violations are forwarded to the Enforcement Bureau, which may take enforcement action against alleged violators. The Commission has issued numerous citations against violators of the TCPA and the Commission's telemarketing rules. These enforcement actions can eventually result in monetary penalties of up to \$11,000 per violation.

We are enclosing a copy of the TCPA and the Commission's rules, along with information that explains the Commission's efforts to protect consumers from receiving unsolicited telephone marketing transmissions to which they object, and the actions consumers can take to reduce the number of solicitation calls placed to their homes. Mr. Michelman may also wish to note that, under the TCPA, consumers may bring a private lawsuit in state court to recover damages, if otherwise permitted by the state's laws or rules of court.

We invite Mr. Michelman to visit the Consumer & Governmental Affairs Bureau's Internet web site at <http://www.fcc.gov/cgb> for additional information. In addition, he may wish to view the Enforcement Bureau's web site at <http://www.fcc.gov/eb/tcd/working.html> for recent Commission TCPA enforcement actions. Information on telephone-related issues is

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also available to the public by calling the Commission's Consumer Center toll free at 1-888-CALL-FCC (TTY users: 1-888-TELL-FCC) or "Fax on Demand" at 202-418-2830. The Commission has available an e-mail service designed to apprise consumers about developments at the Commission, to disseminate consumer information materials prepared by the Commission to a wide audience and to invite comments from other parties on Commission The regulatory proposals. This free service enables consumers to subscribe and receive FCC fact sheets, consumer brochures and alerts, and public notices, among other consumer information. To subscribe, an individual would send an e-mail to subscribe@info.fcc.gov and in either the subject line or body of the message put: subscribe fcc-consumer-info first name last name (substitute their first and last name, for example, "subscribe fcc-consumer-info John Doe").

We appreciate your inquiry. Please do not hesitate to contact us if you have further questions.

Sincerely,


For K. Dane Snowden

Chief

Consumer & Governmental Affairs Bureau

Enclosures

DANIEL K. INOUE
HAWAII

APPROPRIATIONS
Subcommittee on Defense—Ranking Member
COMMERCE, SCIENCE, AND TRANSPORTATION
Subcommittee on Surface Transportation and
Merchant Marine
COMMITTEE ON INDIAN AFFAIRS—Vice Chairman
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September 15, 2003

The Honorable Michael Powell
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

CEB
TCPA-Pol/14
2788

Dear Mr. Chairman:

I wish to share with you a letter I received from my constituent, Mr. Ed Michelman, regarding his efforts to bring to the Federal Communications Commission's (FCC) attention the problem of unsolicited commercial faxes.

I would appreciate your reviewing Mr. Michelman's concerns, including his previous correspondence about this issue, and commenting on what actions are being taken by the FCC to address these concerns.

Thank you for your assistance with this matter.

Aloha,


DANIEL K. INOUE
United States Senator

DKI:mlc
Enclosure

23 SEP 2003 RCVD

FAX COVERSHEET

Ed Michelman
381 Halemaumau Place
Honolulu, HI 96821
(808) 373-4263 (Phone and FAX)

ATTENTION: Margaret Cummisky**To:** Honorable Daniel K. Inouye**From:** Ed Michelman **Date:** September 4, 2003

Aloha ia 'oe e Senator Inouye,

I hope you had a good trip back to DC and that the weather there is bearable if not pleasant.

I wonder if you would take a few minutes from your busy schedule to phone me with regard to a serious and escalating problem which affects increasing numbers of individuals and businesses. I would like to discuss this issue with you personally.

The problem of unwanted "spam" e-mail has been widely publicized and steps are being taken to mitigate this abomination. Even more serious is the proliferation of faxed spam. The practice of sending unsolicited commercial faxes commandeers the recipients phone line and fax machine and depletes paper and ink supplies. For those of us in Hawai'i, where there is a 5 or 6 hour time difference, these automated fax solicitations often wake us up at 2 or 3 in the morning.

Although fax spam is in direct violation of the "Telephone Consumer Protection Act" and FCC Rules, The Federal Communications Commission refuses to enforce this legislation or even acknowledge official complaints. I have jumped through all the hoops and more in an attempt to stop these solicitations. On August 21, 2001 I submitted the required "Consumer Complaint Form For Telephone Related Issues." There was no response. On August 23, 2002 I wrote FCC Commissioner Kathleen Q. Abernathy. There was no response. I followed up with a phone call to her office and spoke to Ann Monahan, her personal assistant. She referred me to a Phyllis Chandler of the Customer & Governmental Bureau. I faxed Chandler copies of all correspondence and several examples of fax spam to her. There was no response. The faxes continue unabated.

Senator Inouye, you are my last hope. Government is not supposed to work this way! I have files which go back more than 2 years detailing my unsuccessful efforts to get the FCC to do its job. I would be glad to share this data with you or your staff.

Mahalo nui loa.

